

# **2019 VULNERABLE ADULT ABUSE CONFERENCE**

Friday, September 6, 2019  
Rio Salado College Conference Center  
M & M Room  
Tempe, Arizona



## **PROSECUTING CASES OF VULNERABLE ADULT ABUSE**

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Distributed by:

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EXECUTIVE DIRECTOR

PROSECUTING  
VULNERABLE ADULT  
ABUSE

Vulnerable Adult Abuse Conference  
September 6, 2019



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Not just any adults.....

A.R.S. §46-451(9)

Person 18 years of age or older who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment.

Includes incapacitated person (§14-5101)



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Aging Population Growth Explosion

In the U.S. every 8 seconds someone will turn 60 for next 20 years



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Aging Population Growth Explosion

By 2050 there will be 19 million people in the U.S. over 85

That is an increase of **1000%**



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Aging Population Growth Explosion

In 10 years  
25% of all Arizonans  
will be over  
the age of **65**



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Scope of Elder Abuse

Estimated 2 to 5 million abused annually in U.S.

Annual Incidents of Elder Abuse are between 7 – 10% of the elder population

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## Scope of Elder Abuse

Overall it is estimated that only 1 out of every 14 cases of abuse is reported



Another study in New York State showed that for every case known 24 were unknown

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## Most cases not reported

- Fear
- Isolation
- Inability
- Protect Abuser
- Self Blame
- Hope it Will Stop



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## Child or Vulnerable Adult Abuse §13-3623

- A. Likely to produce death or serious physical injury....
- B. Other than those likely to produce death or serious physical injury
- C. Emotional Abuse



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## Indicators of Physical Abuse

- ☐ Multiple/severe bruises
- ☐ Evidence of restraint
- ☐ Bruises resembling an object
- ☐ Glasses
- ☐ Untreated injuries
- ☐ Burns
- ☐ Overmedicating
- ☐ Bed sores



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## Neglect

§46-451 (6) Definition; §46-455 Permitting

Pattern of conduct without the person's informed consent, resulting in deprivation of :

- Food
- Water
- Medication
- Medical services
- Shelter
- Cooling, heating



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## Financial Exploitation of a Vulnerable Adult

§13-1802 (B)

Person in a position of trust and confidence knowingly takes control, title, use or management of vulnerable adult's property



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## Indicators of Exploitation

- Depleted bank account
- Unexplained disappearance of funds
- Change in payee, POA or will
- Transfer of property or savings
- Individual reports signing “papers”
- Chronic failure to pay bills, late notices
- Suspicious transactions at odd locations




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## Challenges

- ☐ Lack of independent witnesses.
- ☐ Identification issues.
- ☐ Memory issues with victims and witnesses.
- ☐ Late reporting-evidence not preserved.
- ☐ Victim is often unavailable for trial.
  - Recanting
  - Physically unable to come to Court
  - Mentally unable to testify or recall events
  - Deceased
- ☐ Injuries
  - Visible
  - Invisible




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## Over Coming Challenges By Garnering ALL of the Evidence

- ☐ Use all of your evidence like you are proving a circumstantial case
- ☐ INCLUDES using a variety of evidence to prove the guilt of an abuser with limited, adverse or no participation by the Victim.
  - Using non-hearsay and hearsay exceptions




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## Evidence

- ❑ Civilian Witness Statements
- ❑ LEO Reports
- ❑ 911 calls
- ❑ Suspect Interviews
- ❑ Defendant's Jail Calls/Visits
- ❑ Medical Records
- ❑ Photographs
- ❑ Description of Scene/Demeanor
- ❑ Adult Protective Service Records

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## CONSIDER EXPERTS AND OTHER CIVILIAN WITNESSES TO GATHER EVIDENCE

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## APS WORKER

- ❑ Are there prior allegations of abuse with this Victim?
- ❑ Are there prior allegations against this suspect?
- ❑ Statements made by Suspect?
- ❑ Statements made by Victim?
- ❑ Has there been a mental evaluation of Victim?

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## PCP/ PHARMACIST

- Medical history
- Mental Health history
- Weight information (neglect cases)
- Symptoms of disease/diagnosis
- Effects of medication
  - Cognitive
  - Blood thinner/bruising

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## ER MD/NURSE/DISCHARGE

- Injuries, Diagnosis
- Treatment required
- Cause of injury
- Statements made by Victim for medical treatment
- Statements made by suspect
- Care instructions given to caregiver

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## FACILITY DIRECTOR

- Standard of care
- Medical charts/history
- Caregiver contracts/rules
  - E.g. "I will not accept gifts from residents."
- Caregiver schedules
  - Narrow suspects to who was working when V injured

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## BANKER/ACCOUNTANT

- Accounting of Victim's assets
- Collect bank statements
- Changes in account balances and transfers

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## CIVIL ATTORNEY

- Review will, trust, estate planning documents
- Are there any parallel proceedings?
- Fiduciary duties
- When documents were executed
  - Helps with determining competency at a given time

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## Reporting Abuse, Neglect and Financial Exploitation

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## §46-451, et seq.

protects vulnerable adults from abuse, neglect and exploitation  
 criminalizes neglect 46-455 (A), and  
 Criminalizes financial exploitation 46-456 (B)  
 • Of an incapacitated or vulnerable adult

## Arizona's Elder Abuse Statute

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## Mandatory Reporting

- ❖ Suspected incidents of abuse, neglect and financial exploitation
- ❖ Doctors, nurses, social workers, health professionals, trustees, guardians, attorneys or
- ❖ "other persons responsible for the care of vulnerable adults

## A.R.S. § 46-454

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## Making a report:

- Central Intake Unit: (877) 767-2385 [877-SOS-ADULT]  
 -only during business hours
- Faxed report: (602) 277-4984
- Online:  
<https://des.az.gov/reporting-arizona-adult-abuse-neglect-and-exploitation>  
 -24 hours

## Adult Protective Services

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## Adult Protective Services

APS investigator assigned, will respond within 1-5 days

What APS CAN do:

- Evaluate the client
- help client find community resources/services
- interview witnesses
- conduct interviews of suspected perpetrators
- refer findings to law enforcement

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What APS CANNOT do:

- remove an adult from their home against their wishes
- prevent an adult from using financial resources
- serve as guardian or conservator
- make a determination of capacity  
(can only be determined by the Superior Court)
- interfere with an adult's chosen lifestyle

APS, continued

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**TASA**  
**TASKFORCE AGAINST SENIOR ABUSE**  
**ARIZONA ATTORNEY GENERAL MARK BRNOVICH**

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## Resources

- ⌘ For Elder Domestic Violence:  
Late Life DV Program Services, ARC at 520-623-3341 (Tucson area)
- ⌘ DOVES program  
24-Hour Senior HELP LINE at 602-264-4357
- ⌘ Area Agency on Aging  
24-Hour Senior HELP LINE at 602-264-4357
- ⌘ Adult Protective Services  
Central Intake at 877-767-2385  
Department of Health Services at 602-364-2536

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## Elder Justice Website

- ⌘ <http://www.justice.gov/elderjustice>
- ⌘ For Victims and family members
- ⌘ Reporting abuse and exploitation
- ⌘ Sample pleadings and statutes
- ⌘ Resources

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## Thank You!



Sterling Struckmeyer, Sean Coll, and  
Douglas Clark  
Assistant Attorneys General

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